

**FLOOR STATEMENT OF REPRESENTATIVE EDWARD J. MARKEY (D-MA)
REGARDING H.R. 4545
TUESDAY, JUNE 14, 2004**

I rise in opposition to H.R. 4545.

If this House had a Rule prohibiting false or misleading short titles I would offer a point of order that the "Gasoline Price Reduction Act," was in blatant violation. This bill does absolutely nothing to address the real causes of the high prices that American consumers are paying at the gasoline pump.

With this bill, the Republicans have identified a problem: gas prices are too high. Consumers are paying an Arm for Regular, a Leg for Plus, and their First Born for Premium. We need to do something.

Democrats agree.

But the Republicans have offered up a false solution: Waive our clean air laws. Allow more dirty air into our children's lungs.

This bill's motto is "Regulate softly, and carry a big inhaler."

The Republican "pollution solution" would have American consumers go from gasping at the prices at the pump to gasping for breath.

If it passes, consumers go from paying through the nose for expensive gas to paying through the nose because of dirty gas.

According to EPA, clean air protections at most add a nickel to the price of a gallon of gasoline. Moreover, gasoline prices have increased nationwide, with conventional and cleaner-burning gas prices rising at the same rate.

GAO just submitted a report to Congress a few weeks ago, warning that oil company mergers and increased market concentration generally led to higher wholesale gasoline prices in the United States from the mid-1990s through 2000." This report found that "six of the eight mergers that GAO modeled led to price increases averaging between 1 and 2 cents per gallon." GAO also found that increased market concentration in the oil industry following these mergers also lead to increased prices, which GAO found had increased the wholesale price of gas in some regions of the country by 5 cents per gallon, and increased the price of "boutique fuels" sold in the East Coast and Gulf Coast regions by 1 cent per gallon, while prices for boutique fuels sold in California increased by over 7 cents per gallon.

Are we going to do anything about gas price increases resulting from these oil company mergers, or from the oil industry's increased market power and ability to price gouge consumers? NO!!!!

What we are doing with this bill is providing the EPA Administrator with an open-ended authority to waive cleaner-burning gasoline or diesel requirements – for essentially as long as EPA sees fit based on an undefined “significant fuel supply disruption.”

This bill has never been the subject of any hearing before the Energy and Commerce Committee. We have never had an opportunity to study it. We have never had a chance to receive testimony on what impact it would have on the Clean Air Act if it were enacted. We have never had a markup on the bill in the Energy and Commerce Committee. Under the gag rule that we are operating, we cannot offer any amendments to it.

Meanwhile, the authors of the bill seem to have been making changes to the bill text on a daily basis. Last week we were provided with a copy of the bill by the Majority, which limited the EPA’s Clean Air Act waiver authority to no more than 5 day periods. Then, the sponsors circulated a draft with a 60 day waiver. Now, we are presented on the floor with a waiver authority of unlimited duration.

Would the EPA’s waivers be judicially reviewable? I don’t think so. The bill says that the Clean Air Act waiver “shall remain in effect in the area concerned for such period as the Administrator, in consultation with the Secretary of Energy, DEEMS NECESSARY BY REASON OF SUCH FUEL SUPPLY DISRUPTION.”

That means that the Courts would have no ability to question the EPA’s determinations regarding how long the waiver should remain in effect. Whatever the EPA “deems necessary” would be deemed acceptable, and the Courts would have no ability to overturn a waiver. So, if we pass this bill today, the Congress will have given the EPA Administrator a blank check to waive the Clean Air Act anti-pollution requirements for as long as they like – months, years, even decades.

There appears to be no obligation for states or the federal government to mitigate or make up for the excess pollution to may occur over the waiver period.

The bill also bars any increase in the number of existing fuels and fuel additives. This would apply to state adopted ultra-low sulfur diesel, biodiesel, or cleaner-burning gasoline programs regardless of their lack of impact on gasoline prices or supply or that they may be needed to meet new air quality standards for ozone smog or fine particle pollution.

While I agree the proliferation of “boutique fuels” is a problem, are likely to see fewer of them in the future. The proliferation of boutique fuels occurred initially because there were a variety of state sulfur requirements and states trying to meet their oxygenate requirements with their own unique blend of fuel. As the Bush Administration’s much touted national sulfur standards take effect and as states are relieved from the oxygenate requirements and enact bans on MTBE, refiners will have to make fewer boutique fuels because more areas are likely to opt -in to reformulated gasoline to maintain healthy air.

The danger of Congress arbitrarily capping the number of boutique fuels as this natural contraction occurs is that it could will actually cause supply constraints and raise gasoline prices, not reduce them.

Air pollution remains a pervasive public health problem in this country. More than half of all of Americans live in counties with unhealthy levels of ozone smog or fine particle pollution.

These pollutants are linked to serious respiratory, heart, and lung diseases, including asthma attacks, congestive heart failure and coronary artery disease, heart attacks, and premature death.

We need stronger, not weaken, clean air protections. We should not be voting to allow the EPA Administrator an open-ended authority to waive clean air requirements.

I urge you to oppose this bill.